



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

James Freas  
Acting Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: October 13, 2015  
Land Use Action Date: November 17, 2015  
Board of Aldermen Action Date: December 21, 2015  
90-Day Expiration Date: January 12, 2016

DATE: October 9, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Daniel Sexton, Senior Planner

SUBJECT: **Petition #166-14(2)**, SEAN O'MALLEY, for SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE by enclosing an existing detached carport and installing a garage door, which will increase the Floor Area Ratio from 0.38 to 0.42, where 0.35 is the maximum allowed by right, at 22 LENOX STREET, Ward 2, West Newton, on land known as SBL 32, 50, 5, containing approximately 9,353 square feet of land in a district zoned SINGLE RESIDENCE 1. Ref.: Sec. 30-24, 30-23, 30-21(b), 30-15 Table A, 30-15(u)(2) of the City of Newton Rev Zoning Ord., 2012.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision-making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



**22 Lenox Street**

### EXECUTIVE SUMMARY

The property at 22 Lenox Street consists of a 9,353 square foot lot, and is improved with a nonconforming 2½-story single-family residence constructed in approximately 1889 and a detached carport built in 2014. The residence is considered nonconforming since the existing floor area ratio (FAR) of buildings on the site is 0.38, which exceeds the maximum FAR allowed of 0.35. The petitioner is proposing to enclose the carport, which totals 324 square feet of gross floor area, to create a garage. In order to enclose the detached accessory structure as proposed, the petitioner is seeking a special permit to increase the already nonconforming FAR of 0.38 to 0.42, where 0.35 is the maximum allowed by-right.

In 2014, the former owner of the property, a developer, requested a similar special permit, but withdrew the petition without prejudice due to neighborhood objections. As indicated in the Zoning Review Memorandum (**ATTACHMENT A**), the former developer was allowed to construct the existing carport, as this type of accessory structure does not count towards the FAR of the site. The accessory structure is partially visible from the street, but is largely screened from view from abutting properties by an existing site obscuring fence on the south and east sides of the structure.

The Planning Department has no concerns with this petition. The Planning Department and Inspectional Services Department have not received any complaints regarding the structure since its erection. The petitioner has engaged the abutters about the project, and does not expect opposition to the petition as proposed. The Planning Department believes enclosing the detached accessory structure will not adversely affect surrounding neighborhood, as the structure already exists and the activities internal to the structure will be buffered by its enclosure. For these reasons, the Planning Department believes the proposed garage and resulting FAR will not be substantially more detrimental than the existing carport and residence are to the surrounding neighborhood. Further, the Planning Department believes the proposed house and garage will not be in derogation of the size, scale and design of other similar residences in the neighborhood.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The house and proposed garage are consistent with and not in derogation of size, scale and design of other structures in the neighborhood. (§30-15 Table A and §30-15(u)(2))
- The site is an appropriate location for a detached garage. (§30-24(d)(1))
- The proposed garage, which increases the already nonconforming FAR on the site, is not substantially more detrimental than the existing nonconforming FAR of the carport and residence are to the neighborhood. (§30-21(b))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The site is located on Lenox Street near the intersection of Lenox Street and Regent Street. The subject property and surrounding properties contain single-family residential land uses (**ATTACHMENT B**). All the properties in the neighborhood, including the subject property, are zoned Single Residence 1 (**ATTACHMENT C**).

### B. Site

The site consists of 9,353 square feet of land, and is improved with a nonconforming 2½-story single-family residence and a detached carport. The residence is considered nonconforming since the existing FAR of the dwelling on the site is 0.38, which exceeds the maximum FAR allowed by right of 0.35. There is a driveway that extends along the south side of the property that provides vehicular access from Lenox Street to the carport. The remainder of the property is landscaped lawn.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The use will remain a single-family residence.

### B. Building and Site Design

The petitioner is proposing to enclose the existing 324 square foot detached carport, to create a garage. In order for the structure to be enclosed, the petitioner will need to extend the wood-framed wall to the slab and install windows and garage doors, no other exterior modifications are proposed. Once enclosed, the structure will still accommodate parking for two-vehicles. As designed, the structure complies with all the dimensional controls for detached accessory structures as stipulated under §30-15(m) of the Newton Zoning Ordinance.

If the enclosing of the carport is approved, the already nonconforming FAR of buildings on the property will increase from 0.38 to 0.42. The allowed by right FAR for the property is 0.35. As indicated in the Zoning Review Memorandum, the existing open carport does not count towards the total FAR of the site, whereas enclosed garages do.

The Planning Department has no concerns with this petition. The Planning Department believes the conversion of the carport to a garage will not put the property in derogation of the size, scale, and design of other similar detached accessory structures in the surrounding neighborhood, and will not be substantially more detrimental to the neighborhood than the existing structures on the site.

C. Landscape Screening

The proposed garage is partially visibility from the street, but is largely screened from view for abutting properties by an existing site obscuring fence on the south and east sides of the structure, and plantings that have been installed adjacent to the fence. The Planning Department believes the existing obscuring fence and plantings on the site will sufficiently screen the proposed garage.



IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance)

The Zoning Review Memorandum (**ATTACHMENT A**) provides an analysis of the proposal with regard to zoning. Based on this review, the petitioner is seeking a Special Permit/Site Plan Approval for the following relief:

- §30-15 Table A, §30-15(u)(2), and §30-21(b), to increase the already nonconforming FAR of buildings on the site by enclosing an existing carport to create a garage.

B. Engineering Review

As the petition is not increasing the level of impervious surfaces on the lot by 4%, or 400 square feet, or altering the landscape of the site in a way that results in the alteration of the surface water runoff to abutting properties or erosion of soil, no review by the Engineering Division of Public Works is required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- ATTACHMENT A:** Zoning Review Memorandum  
**ATTACHMENT B:** Land Use Map  
**ATTACHMENT C:** Zoning Map



Setti D. Warren  
Mayor

# ATTACHMENT A

## City of Newton, Massachusetts

Department of Planning and Development  
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Candace Havens  
Director

### ZONING REVIEW MEMORANDUM

Date: September 14, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Sean O'Malley, Owner  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to increase already nonconforming FAR

Applicant: Sean O'Malley	
Site: 22 Lenox Street	SBL: 32050 0005
Zoning: SR-1	Lot Area: 9,353 square feet
Current use: Single-family dwelling	Proposed use: No change

#### BACKGROUND:

The property at 22 Lenox Street consists of a 9,353 square foot lot improved with a single-family residence constructed in 1889 and a detached carport built in 2014. The structure consists of two and a half stories and a basement. The applicant seeks to now enclose the carport so as to create a 324 square foot garage. Carports do not count toward FAR, however garages do. The existing FAR on the site is .38, and the enclosure of the garage will increase the FAR to .42, which exceeds the .35 allowed by right.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Sean O'Malley, dated 9/11/2015
- FAR Worksheet, dated 9/11/2015
- Site Plan, signed and stamped by Frank Iebba, surveyor, dated 1/8/2014, revised 1/20, 3/24

**ADMINISTRATIVE DETERMINATIONS:**

1. The proposed detached garage increases the structure’s nonconforming FAR, from .38, to .42, which exceeds the .35 maximum permitted by the Ordinance per Section 30-15, Table A. To construct the detached structure as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-15(u)(2) and Section 30-21(b).
2. By-right renovations to the existing structure removing the existing front porch side stairway and a rear porch will result in a decrease in lot coverage.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	<b>9,353 square feet</b>	No change
Frontage	100 feet	<b>85 feet</b>	No change
Setbacks for detached accessory structure			
• Front	25 feet	101.8 feet	No change
• Side	5 feet	6.4 feet	No change
• Rear	5 feet	6 feet	No change
FAR	.35	<b>.38</b>	<b>.42</b>
Max Lot Coverage	20%	<b>21.2%</b>	<b>20.6%</b>
Min. Open Space	65%	71.5%	68.8%

1. See “Zoning Relief Summary” below:





Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table A, 30-15(u)(2) 30-21(b)	Exceed nonconforming Floor Area Ratio (FAR)	S.P. per §30-24

# Land Use Map 22 Lenox Street

City of Newton,  
Massachusetts

## ATTACHMENT B

### Legend

-  Building Outlines
-  Property Boundaries
- Land Use**
-  Single Family Residential
-  Vacant Land

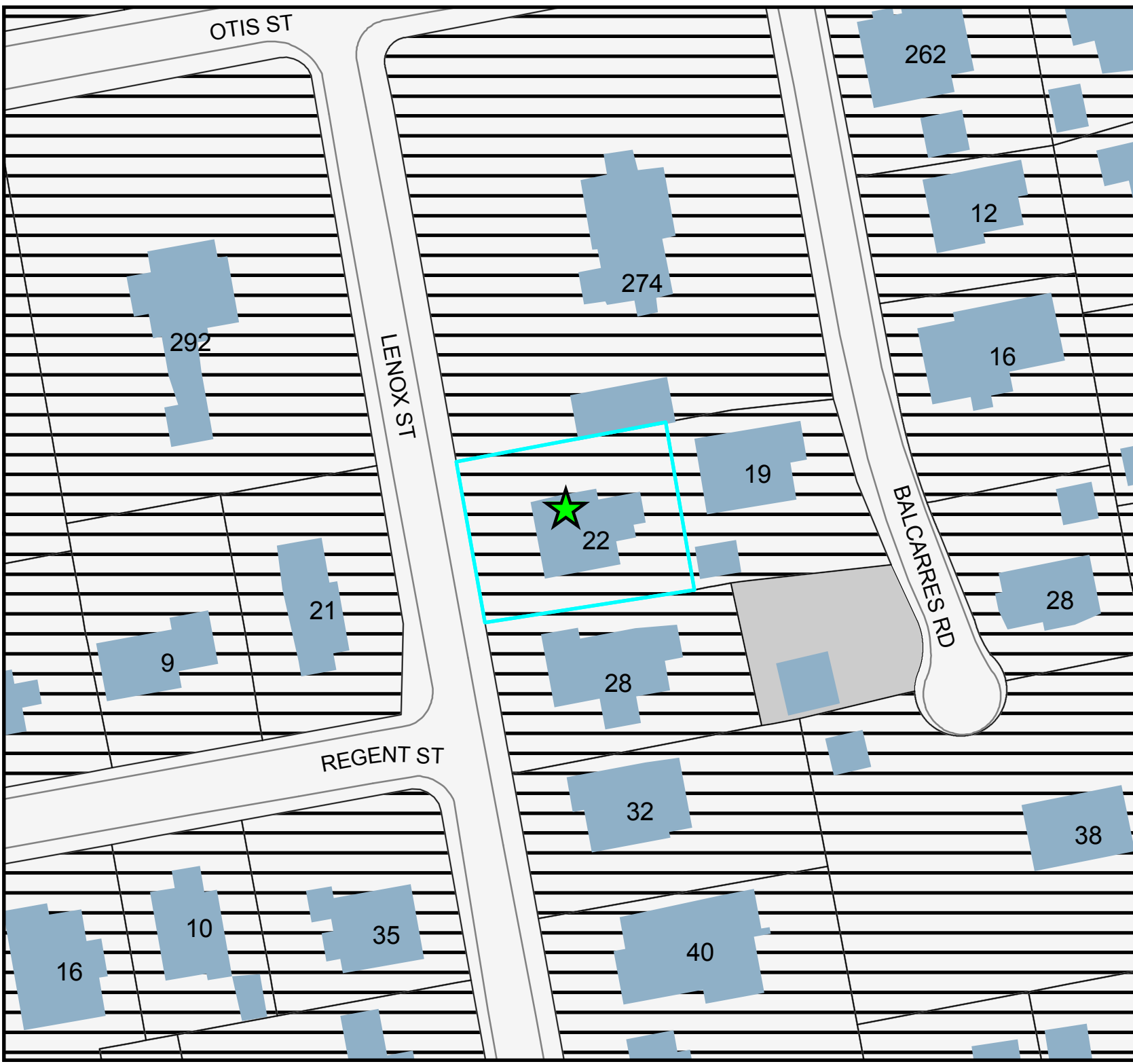


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: September 22, 2015






# Zoning Map 22 Lenox Street

*City of Newton,  
Massachusetts*

## ATTACHMENT C

### Legend

-  Building Outlines
-  Property Boundaries
-  Single Residence 1



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